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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

MURPHY, RHONDA L

ART UNIT

PAPER NUMBER

2462

NOTIFICATION DATE

DELIVERY MODE

02/01/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/736,298

Applicant(s)

BENNAI ET AL.

Examiner

RHONDA MURPHY

Art Unit

2462

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 December 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-5, 9 and 11-13.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Seema S. Rao/
Supervisory Patent Examiner, Art Unit 2462

/R. M./
Examiner, Art Unit 2462

Continuation of 11. does NOT place the application in condition for allowance because: applicants' arguments are not persuasive. Applicant argues Kobayashi does not mention where the common signaling channel is located and Kobayashi discloses only a single common signaling channel. However, Examiner respectfully disagrees. Figure 10 illustrates two physical cables, 30a and 30b, each having a signaling channel - common signal signal, as described in column 10, lines 46-50, and further in column 11, lines 15-27, which recites in part, "the common signal channel in the interoffice physical cable 30a and the common signal channel in the interoffice physical cable 30b have already been established." Thus, each physical cable 30a and 30b has a signaling channel. In regard to the Kato reference, applicants further argue it would not have been obvious to adopt the feature of determining an order of priority of use of the signaling channels, and assigning the highest priority functional signaling channel to the first access, because Kobayashi does not have plural signaling channels. As previously stated, Examiner respectfully disagrees and the above column and line numbers, along with Figure 10, show the Kobayashi reference teaching two physical cables 30a and 30b each having a signaling channel. Thus, it would have been obvious to one skilled in the art to combine Kato's teaching of "determining an order of priority of the use of the signaling channels, and assigning the highest priority functional signaling channel to the first access," for the purpose of providing signaling information in an ordered fashion, according to available capacity in the signaling channel and further improve reliability of the service connection. Examiner disagrees with the arguments made in regard to independent claim 4 and dependent claims 2, 5 and 9 for the same reasons described above. In regard to claim 3, it would have been obvious to one skilled in the art to regularly test a highest priority signaling channel when the highest priority signaling channel is not in service, for the purpose of determining when a higher/better priority channel is available for transmission and further improve reliability of the service connection. In regard to claim 11, it would have been obvious to one skilled in the art to render said subset of said information channels unavailable for use in setting up calls, since a congested signaling channel cannot provide signaling or control data for the associated information channels, thus making the information channels unavailable for use in a call setup procedure. In regard to claim 12, it would have been obvious to one skilled in the art to render said subset of said information channels unavailable for use in modifying calls that have already been set up, since a congested signaling channel cannot provide signaling or control data for the associated information channels, thus preventing call modification. In regard to claim 13, it would have been obvious to one skilled in the art to conclude a congested signaling channel is incapable of managing all signaling signal transmissions for all information channels of said first access, since a congested signaling channel cannot provide signaling or control data for the associated information channels. Thus, it is Examiner's position that the claim limitations have been met and the rejection has been maintained.